REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on September 13, 2006, and the references cited therewith.

Claims 1, 4, 6, 7, 10, 12, 13, 22, 23, 26 and 28 are amended and claims 5, 11, 19, and 27 are canceled. As a result, claims 1-4, 6-10, 12-18, 20-26 and 28 are now pending in this application. Applicant notes with appreciation the allowance of claims 20 and 21 and the indication of allowable subject matter in claims 4-6, 10-12, 19 and 26-28. In accordance with the examiner's recommendations in the Office Action, applicant has amended independent claim 1 to include the allowable subject matter of claim 5, amended independent claim 7 to include the allowable subject matter of claim 11, amended independent claim 13 to include the allowable subject matter of claim 19, and amended independent claims 22 and 23 to include the allowable subject matter of claim 27.

35 USC § 112 Rejection of the Claims

Claims 22 – 28 were rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. The Office Action asserts that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Office Action states that claims 22 and 23 are single means claims and the scope of the claims was not commensurate with the specification. Applicant respectfully disagrees and traverses this rejection.

In a recent case, MIT v. Abacus Software, the Court of Appeals for the Federal Circuit held that the term "aesthetic correction circuitry" connotes sufficient structure to avoid treatment under 35 U.S.C. §112, ¶6. MIT v. Abacus Software, Slip Op. at 17 (Fed. Cir. Sept. 13, 2006). In particular, the Federal Circuit found that dictionary definitions establish that the term "circuitry," by itself, connotes structure. Id. The Federal Circuit also referred to two prior cases in which the term "circuit," combined with a description of the function of the circuit, connoted sufficient structure to one of ordinary skill in the art to avoid §112, ¶6 treatment. Id. at 18; See Linear Tech. Corp. v. Impala Linear Corp., 379 F.3d 1311, 1320 (Fed. Cir. 2004); Apex Inc. v. Raritan Computer, Inc., 325 F.3d 1364, 1373 (Fed. Cir. 2003).

In the present application, applicant respectfully submits that the term "receive circuitry" in claim 22 and the term "circuitry" in claim 23 similarly avoid §112, ¶6 treatment. Because these terms do not invoke 35 U.S.C. §112, ¶6, these terms cannot be considered improper single means claims. Accordingly, applicant requests that the rejection under 35 U.S.C. §112, first paragraph, be withdrawn.

35 USC §102 and §103 Rejections of the Claims

Claims 1, 3, 7, 9, 13 – 17, 22, 23, and 25 were rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,964,008 to Van Meter, III . Claims 2, 8, 18 and 24 were rejected under 35 USC § 103(a) as being unpatentable over Van Meter, III in view of U.S. Patent No. 6,324,669 to Westby. Applicant submits that these rejections are moot in light of the amendments to independent claims 1, 7, 13, 22 and 23 to include the allowable subject matter. Accordingly, applicant requests that these rejections be withdrawn.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (603-668-6560) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-2121.

Respectfully submitted,

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